

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Lauren Kerstein	Team: Squad #7	CCRB Case #: 201412730	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 10/29/2014 6:00 AM	Location of Incident: § 87(2)(b)	Precinct: 81	18 Mo. SOL 4/29/2016	EO SOL 4/29/2016	
Date/Time CV Reported Mon, 12/29/2014 9:23 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 12/29/2014 9:23 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Ryan Lynch	2747	940399	WARRSEC
2. DT3 Eric Ortiz	5503	942297	WARRSEC
3. POM Kenny Valladares	00783	935898	WARRSEC

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Eric Ortiz	Abuse: Det. Eric Ortiz entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B.POM Kenny Valladares	Abuse: PO Kenny Valladares entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
C.DT3 Ryan Lynch	Abuse: Det. Ryan Lynch entered and searched § 87(2)(b) in Brooklyn.	§ 87(2)(b)

Case Summary

On October 29, 2014 at approximately 6 a.m., § 87(2)(b) was in her apartment located on the § 87(2)(b) in Brooklyn, when she heard the front door of the building open. § 87(2)(b) thought it was her husband, § 87(2)(b) who had left for work a few minutes earlier. When she went out into the hallway, she saw Det. Ryan Lynch, Det. Eric Ortiz and PO Kenny Valladares inside the building (**Allegations A, B and C**). Det. Lynch showed § 87(2)(b) a photo of § 87(2)(b), the son of her former tenant, § 87(2)(b), and asked if she had seen him before. § 87(2)(b) told the officers that he no longer lived in the building and gave the officers § 87(2)(b) contact information. She then escorted the officers toward the entryway of the building. Prior to entering, Det. Lynch searched through a box of mail located in the front entrance of the building (**within Allegation C**). At the front door, § 87(2)(b) asked the officers how they entered the apartment. The officers indicated that the door was open.

This case was originally assigned to Inv. Krista Kano and upon her resignation from the agency, this case was re-assigned to Inv. Lauren Kerstein on February 27, 2015.

Video Footage

The surveillance footage was provided to the investigation by § 87(2)(b) and is seven minutes and twenty-nine seconds long. The video is equipped with sound (encl. E1).

The video camera is inside the hallway of § 87(2)(b) and points at the inside of the front door. The video shows § 87(2)(b) leaving the building through the front door and closing it behind him. Minutes later, the video shows a flashlight shining from the opposite side of the front door and an officer's silhouette moving and crouching outside of the door near the door handle. After about a minute of creaks, bangs, and moving silhouettes, there is a loud bang and the door swings open. PO Valladares, followed by Det. Lynch and Det. Ortiz, enter the building.

After a few minutes, the officers come down the stairs and Det. Lynch rifles through an open box of papers on top of a cabinet and picks up two pieces of paper which appear to be envelopes. After flipping over the envelopes and examining them, Det. Lynch puts them back in the box. As the officers are leaving, § 87(2)(b) asks PO Valladares if her door was left open and if that was how the officers entered. § 87(2)(b) asks, "It was?" in response to something unintelligible PO Valladares says and PO Valladares confirms "it was." The officers then leave and § 87(2)(b) closes the front door and walks out of the frame.

Mediation, Civil and Criminal Histories

After initially accepting mediation in her in-person interview, § 87(2)(b) rejected mediation during a phone conversation on January 22, 2015. A Notice of Claim inquiry was submitted on March 16, 2015, and will be forwarded upon receipt. § 87(2)(b)

Civilian and Officer CCRB Histories

- This is the first complaint filed by § 87(2)(b) (encl. C5).
- Det. Lynch, Det. Ortiz and PO Valladares have been members of the service for nine, eight and ten years, respectively (encl. C1-C4). § 87(2)(g)
- § 87(2)(b) (encl. S1-S7):
 - In CCRB# 201307437, a civilian alleged that Det. Lynch and two other officers breached their door with an unidentified tool while executing a bench warrant.

The allegation was ultimately closed as unsubstantiated § 87(2)(g)

- In CCRB# 201408117 and CCRB# 201410401, which are still pending investigation, Det. Lynch is being investigated for forcibly entering into civilians' apartments while executing arrest warrants.
- In CCRB# 201303865, the investigation determined Det. Ortiz forcibly entered a location on an I-card and invalid arrest warrant. The entry and search allegation against Det. Ortiz was substantiated by the Board and charges were recommended. The NYPD has not yet reached a disposition.

Findings and Recommendations

Identification of Subject Officers

- Each officer acknowledged entering the apartment and during their CCRB statements, they identified themselves on the video. § 87(2)(g)

Allegation A: Det. Eric Ortiz entered § 87(2)(b) in Brooklyn.

Allegation B: PO Kenny Valladares entered § 87(2)(b) in Brooklyn.

Allegation C: Det. Ryan Lynch entered and searched § 87(2)(b) in Brooklyn.

It is undisputed that the officers entered § 87(2)(b).

§ 87(2)(b) stated that the buildings' two front doors close and lock automatically. On that day, he closed and locked the door completely, which is confirmed by the video (encl. G1-G3, H2 and E1).

In the video, the officers' flashlights and silhouettes place them outside of the door for over a minute. Their presence is accompanied by the sounds of creaks and bangs. After a loud bang, Det. Lynch, Det. Ortiz and PO Valladares enter the location and ascend the stairs. As the officers are leaving, Det. Lynch is seen removing pieces of mail from a box. Det. Lynch appears to pick up and flip over two pieces of mail before placing them back in the box (encl. E1).

PO Valladares and Det. Lynch initially claimed to not recall how they gained entry to the building, while Det. Ortiz alleged that the front door was open. After viewing the video, PO Valladares was still unable to recall how they entered (encl. J5-J7), Det. Lynch stated that an officer may have opened the door by bumping it with his hip (encl. I5-I7), while Det. Ortiz maintained that the door was open (encl. K4-K5). None of the officers could account for what they were doing in front of the door for over a minute that would cause the creaks and bangs that can be heard in the video. Upon arriving home from work, § 87(2)(b) noticed scratches around the cylinder of the door that were not there when he left (encl. F9).

After entering, Det. Lynch stated that he went up to the third floor, where he believed § 87(2)(b) to live, and observed that the entire apartment was under renovation, which led him to believe that no one inhabited the third floor apartment. He then spoke with § 87(2)(b) who confirmed that § 87(2)(b) had moved out months ago. Det. Lynch noted that he "took her word for it" and proceeded to leave. When he made it to the first floor hallway, Det. Lynch picked up the mail to see if § 87(2)(b) was still receiving mail at the location and if § 87(2)(b) was telling the truth. Det. Lynch did not ask permission before looking through the mail (encl. I6-I7, L3-L5).

A bench warrant is essentially an arrest warrant directing an officer to bring a person to court for any purpose other than arraignment. It is executed in the same manner as an arrest warrant. NYS Criminal Procedural Law § 530.70(2) (encl. A1-A2).

Before such entry where the officer reasonably believes the defendant to be present, the officer must give, or make reasonable effort to give, notice of his authority and purpose to an occupant thereof, unless there is reasonable cause to believe that the giving of such notice will: (a) Result in the defendant escaping; or (b) Endanger the safety of the officer; or (c) Result in the destruction of evidence. If the officer is authorized to enter premises without giving notice of his authority and purpose, or if after giving such notice he is not admitted, he may forcibly enter such premises. NYS Criminal Procedural Law § 120.80 (encl. A3-A4)

A search of a civilian's home by officers pursuant to an arrest warrant for another individual is a violation of the Fourth Amendment right to privacy, absent a search warrant. Exigent circumstances and consent are exceptions to the search warrant requirement. Steagald v. United States, U.S. 204 (1981)(encl. A5-A18).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

In the video footage, Det. Lynch is seen rummaging through a box of mail containing envelopes located past the threshold of the § 87(2)(b)' home. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Pod: 7

Investigator: _____ Lauren Kerstein _____
Signature Print Date

Supervisor: _____
 Title/Signature Print Date

Reviewer: _____
 Title/Signature Print Date

Reviewer: _____
 Title/Signature Print Date